

Environmental Protection Agency

§ 152.5

distributed or sold. Final printed labeling does not include the package of the product, unless the labeling is an integral part of the package.

(m) *Inert ingredient* means any substance (or group of structurally similar substances if designated by the Agency), other than an active ingredient, which is intentionally included in a pesticide product.

(n) *Institutional use* means any application of a pesticide in or around any property or facility that functions to provide a service to the general public or to public or private organizations, including but not limited to:

- (1) Hospitals and nursing homes.
- (2) Schools other than preschools and day care facilities.
- (3) Museums and libraries.
- (4) Sports facilities.
- (5) Office buildings.

(o) *Manufacturing use product* means any pesticide product that is not an end-use product.

(p) *New use*, when used with respect to a product containing a particular active ingredient, means:

(1) Any proposed use pattern that would require the establishment of, the increase in, or the exemption from the requirement of, a tolerance or food additive regulation under section 408 or 409 of the Federal Food, Drug and Cosmetic Act;

(2) Any aquatic, terrestrial, outdoor, or forestry use pattern, if no product containing the active ingredient is currently registered for that use pattern; or

(3) Any additional use pattern that would result in a significant increase in the level of exposure, or a change in the route of exposure, to the active ingredient of man or other organisms.

(q) *Operated by the same producer*, when used with respect to two establishments, means that each such establishment is either owned by, or leased for operation by and under the control of, the same person. The term does not include establishments owned or operated by different persons, regardless of contractual agreement between such persons.

(r) *Package* or *packaging* means the immediate container or wrapping, including any attached closure(s), in which the pesticide is contained for

distribution, sale, consumption, use, or storage. The term does not include any shipping or bulk container used for transporting or delivering the pesticide unless it is the only such package.

(s) *Pesticide* means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(1) Is a new animal drug under FFDCA sec. 201(w), or

(2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(3) Is an animal feed under FFDCA sec. 201(x) that bears or contains any substances described by paragraph (s) (1) or (2) of this section.

(t) *Pesticide product* means a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.

(u) *Residential use* means use of a pesticide directly:

- (1) On humans or pets,
- (2) In, on, or around any structure, vehicle, article, surface, or area associated with the household, including but not limited to areas such as non-agricultural outbuildings, non-commercial greenhouses, pleasure boats and recreational vehicles, or
- (3) In any preschool or day care facility.

§ 152.5 Pests.

An organism is declared to be a pest under circumstances that make it deleterious to man or the environment, if it is:

(a) Any vertebrate animal other than man;

(b) Any invertebrate animal, including but not limited to, any insect, other arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living man or other living animals;

(c) Any plant growing where not wanted, including any moss, alga, liverwort, or other plant of any higher

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order, and any plant part such as a root; or

(d) Any fungus, bacterium, virus, or other microorganisms, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs (as defined in FFDCA sec. 201(g)(1)) and cosmetics (as defined in FFDCA sec. 201(i)).

§ 152.8 Products that are not pesticides because they are not for use against pests.

A substance or article is not a pesticide, because it is not intended for use against “pests” as defined in § 152.5, if it is:

(a) A product intended for use only for the control of fungi, bacteria, viruses, or other microorganisms in or on living man or animals, and labeled accordingly.

(b) A product intended for use only for control of internal invertebrate parasites or nematodes in living man or animals, and labeled accordingly.

(c) A product of any of the following types, intended only to aid the growth of desirable plants:

(1) A fertilizer product not containing a pesticide.

(2) A plant nutrient product, consisting of one or more macronutrients or micronutrient trace elements necessary to normal growth of plants and in a form readily usable by plants.

(3) A plant inoculant product consisting of microorganisms applied to the plant or soil for the purpose of enhancing the availability or uptake of plant nutrients through the root system.

(4) A soil amendment product containing a substance or substances added to the soil for the purpose of improving soil characteristics favorable for plant growth.

(d) A product intended to force bees from hives for the collection of honey crops.

§ 152.10 Products that are not pesticides because they are not deemed to be used for a pesticidal effect.

A product that is not intended to prevent, destroy, repel, or mitigate a pest, or to defoliate, desiccate or regulate the growth of plants, is not considered to be a pesticide. The following types

of products or articles are not considered to be pesticides unless a pesticidal claim is made on their labeling or in connection with their sale and distribution:

(a) Deodorizers, bleaches, and cleaning agents;

(b) Products not containing toxicants, intended only to attract pests for survey or detection purposes, and labeled accordingly;

(c) Products that are intended to exclude pests only by providing a physical barrier against pest access, and which contain no toxicants, such as certain pruning paints to trees.

§ 152.15 Pesticide products required to be registered.

No person may distribute or sell any pesticide product that is not registered under the Act, except as provided in §§ 152.20, 152.25, and 152.30. A pesticide is any substance (or mixture of substances) intended for a pesticidal purpose, i.e., use for the purpose of preventing, destroying, repelling, or mitigating any pest or use as a plant regulator, defoliant, or desiccant. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if:

(a) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise):

(1) That the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or

(2) That the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or

(b) The substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than (1) use for pesticidal purpose (by itself or in combination with any other substance), (2) use for manufacture of a pesticide; or

(c) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.